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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/807,337	04/10/2001	Yasuhiro Ikeura	55732	5883
21874	7590	05/25/2004	EXAMINER	
EDWARDS & ANGELL, LLP			WEBMAN, EDWARD J	
P.O. BOX 55874				
BOSTON, MA 02205			ART UNIT	PAPER NUMBER

1617

DATE MAILED: 05/25/2004

Please find below and/or attached an Office communication concerning this application or proceeding.



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09/807337

APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
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EXAMINER

ART UNIT	PAPER NUMBER
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5/3/04

DATE MAILED:

This is a communication from the examiner in charge of your application.
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OFFICE ACTION SUMMARY

☒ Responsive to communication(s) filed on 2/13/04

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 D.C. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 4-9 is/are pending in the application.

Of the above, claim(s) 9 is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 4, 6-8 is/are rejected.

☒ Claim(s) 5 is/are objected to.

☐ Claim(s) _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been:

☐ received.

☐ received in Application No. (Series Code/Serial Number) _____

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☒ Notice of Reference Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--SEE OFFICE ACTION ON THE FOLLOWING PAGES--

Art Unit: 1617

The election of species over polymers is withdrawn.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4, 6-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Horstmann et al in view of Leonard et al and ^eLieder.

Horstmann et al teach a transdermal delivering estradiol (abstract). Hexylene glycol is specified as a solubility enhancer (column 2 lines 45, 58). ^{ie}Tackifiers are and skin-permeation enhancers are disclosed (column 4 line 14). Styrene-isoprene-styrene is specified (column 5 example 2).

Leonard et al teach menthol is known as a penetration enhancer (column 2 lines 50-53). Estradiol is disclosed (examples).

It would have been obvious to one of ordinary skill to add menthol to the composition of Horstmann et al to achieve the beneficial effect of an additional permeation enhancer. As to the claimed softeners they are well known in the rubber art ^{LEGPCR,}
(column 3 line 47-column 4 line 2).
^A

Claims 4, 6-8.

Claim 5 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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The IDS submitted 4/10/04 is currently inaccessible in the electronic file. The problem will be addressed before the next action.

Any inquiry concerning this communication should be directed to Edward J.

Webman at telephone number 571-272-0633.

Webman/tgd

May 4, 2004

EDWARD J. WEBMAN
PRIMARY EXAMINER
GROUP 1500